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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/807,514	04/16/2001	Andrew John Heron	36-1419	9127

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8th Floor  
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EXAMINER

COLON, CATHERINE M

ART UNIT	PAPER NUMBER
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3623

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/807,514

Applicant(s)

HERON ET AL.

Examiner

C. Michelle Colon

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____                                                             | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

1. The following is a Non-Final Office Action in response to the communication received on April 16, 2001. Claims 4-6, 8-12, 14, 19-22 and 24-28 have been amended and claims 29 and 30 canceled in a preliminary amendment. Claims 1-28 are now pending in this application.

### ***Drawings***

2. The drawings are objected to because the unlabeled rectangular box(es) shown in the drawings should be provided with descriptive text labels. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and

informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Abstract***

3. The abstract of the disclosure is objected to because it contains, "Figure 10," after the abstract. The abstract should be a single paragraph. Correction is required. See MPEP § 608.01(b).

### ***Specification***

4. The Specification is objected to for not containing all of the proper sections and section headings.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)

(f) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(g) BRIEF SUMMARY OF THE INVENTION.

(h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(i) DETAILED DESCRIPTION OF THE INVENTION.

(j) CLAIM OR CLAIMS (commencing on a separate sheet).

(k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 5 recites the limitation "said data network addresses" in line 1. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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8. Claims 1-3 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Root (U.S. 4,151,370).

As per claim 2, Root discloses a method of conducting an electronic ballot for a ballot operator, the method comprising the steps of:

publishing a list of candidates in the ballot together with corresponding associated telephone number (col. 1, lines 34-40; col. 2, lines 20-28; The system discloses publishing a list of issues or questions to be voted on. Each issue or question has a corresponding telephone number for each possible answer.);

receiving messages from computer terminals, each such message identifiably representing a vote for a said candidate (col. 2, lines 44-55; Figure 2; Incoming calls are received, processed and converted to computer messages by the vote collectors (VCNs).);

providing, for each of said candidates, a respective count of received messages (col. 2, lines 38-39; col. 7, lines 5-12; A count accumulator maintains a total count of votes for each issue or question on the ballot.);

receiving a respective count of answered calls made to said telephone numbers (col. 2, lines 30-39; Figure 1; A caller calls the phone number corresponding to their desired vote and the call is automatically processed by a vote collector (VCN).);

combining the respective count of received messages and the received respective count of answered calls to form a ballot result (col. 2, lines 38-39; col. 7, lines 5-12; A count accumulator maintains a total count of votes for each issue or question on the ballot.); and

sending the ballot result to the ballot operator (col. 7, line 67-col. 8, line 5; Figure 1; The vote collectors collect the vote results and send them to the TV station (TVS).).

Claims 1, 3 and 16-18 recite substantially similar subject matter as claim 2 above. Therefore, claims 1, 3 and 16-18 are rejected on the same basis as claim 2 above.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4-15 and 19-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Root (U.S. 4,151,370) as applied above and in view of McClure et al. (U.S. 6,250,548).

As per claim 4, Root does not expressly disclose a method as claimed in claim 2, wherein the respective counts of answered calls are in the form of subtotals on a regional basis, etc. McClure et al. discloses wherein the respective counts of answered calls are in the form of subtotals on a regional basis; wherein the step of receiving messages from computer terminals includes substeps of identifying the respective source addresses, grouping the received messages on a corresponding regional basis; and wherein the combining step comprises the substeps of summing, for each of the

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regions and for each of the candidates, the respective count of received messages and the respective count of answered calls to form respective totals, and ranking the respective totals to provide the ballot result in the form of respective regional ballot results (col. 9, lines 33-37 and 47-49; col. 44, lines 35-38; The system maintains a geographic districting database as well as a tallying/reports database. The system tallies results by precinct.). At the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of Root to subtotal the results on a regional basis, etc. because doing so provides the system of Root with a more effective means to perform audience sampling, which is a problem addressed by the system of Root (col. 1, lines 15-22), since subtotalling results by region allows the system to monitor where voters live and thus conduct more accurate sampling.

As per claim 5, Root does not expressly disclose a method as claimed in claim 2, wherein said data network addresses are email addresses, etc. McClure et al. discloses wherein said data network addresses are email addresses and said messages are email messages each being addressed to an email address selected from a set of published email addresses correspondingly associated with said candidates (col. 36, lines 42-58; Users conduct Internet voting, which includes providing their email addresses in order to uniquely identify and authenticate their vote.). It is old and well known that the Internet provides a means for global communication and accessibility. At the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of Root to allow users to vote via email as taught by McClure et al. because doing so would enhance the number of users able to vote



since anyone with email access could vote, thus enabling users to vote remotely, which is a problem addressed by the invention of McClure et al. (col. 35, lines 11-16).

As per claims 6-9, Root does not expressly disclose a method as claimed in claim 2, including the steps of: storing on a server, screen display data including identifiers for the candidates, etc. McClure et al. discloses storing on a server, screen display data including identifiers for the candidates (col. 36, lines 10-22; col. 37, lines 17-26; The system allows a variety of ballot styles and formats to be displayed.); and

receiving, at the server, requests sent from the computer terminals for respective users to participate in the ballot, and in response sending the screen display data including identifiers for the candidates to the computer terminals (col. 36, line 59-col. 37, line 15; After users have been verified and authenticated, they are sent email requests with issue numbers (i.e., security codes) indicating they have been authorized to vote.);

and wherein the messages are constituted by respective HTML pages, each such page containing data representing the identity of a candidate selected by a respective user from a screen display of the candidate identifiers (col. 35, lines 55-57; col. 36, lines 4-9 and 30-33; col. 37, lines 22-38; col. 42, lines 50-52; Users access a web page to vote via the Internet, where the ballot is displayed on the web page and users vote by interacting with the web page. The issue number entered by the user dictates the type of ballot (i.e., format and voting topics) presented to the user.). It is old and well known that the Internet provides a means for global communication and accessibility. At the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of Root to allow users to vote via the Internet as

taught by McClure et al. because doing so enhances the number of users able to vote since anyone with Internet access could vote, thus enabling users to vote remotely, which is a problem addressed by the invention of McClure et al. (col. 35, lines 11-16).

As per claim 10, neither Root nor McClure et al. expressly disclose a method as claimed in claim 6, including the steps of storing data for a respective video presentation relating to each of the candidates, etc. However, McClure et al. discloses an Internet-based voting system using executable code that allows users to vote via interactive web pages by scrolling or paging through the ballot (col. 37, lines 15-38). It is old and well known that the Internet is capable of and often used for presenting interactive media, such as video presentations. It is also old and well known that video presentations over the Internet are considered as executable code. At the time of the invention, it would have been obvious to a person of ordinary skill in the art for the system of McClure et al. to provide video presentations in its interactive, Internet-based voting system since the system already has the technical capability to run executable code on its web pages and also because providing information on candidates to voters can only enhance the integrity of the votes by ensuring voters are informed about the candidates.

Claims 11-15 and 19-28 recite substantially similar subject matter as claims 4-10 above. Therefore, claims 11-15 and 19-28 are rejected on the same basis as claims 4-10 above.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Libonati (U.S. 5,056,086) discusses a telephonic mass announcement service; and
- Kohorn (U.S. 5,508,731) discusses a system for gathering responses from broadcast programs; and
- Beckh (U.S. 4,962,525) discusses the use of a telephone system to cast votes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Colon whose telephone number is 571-272-6727. The examiner can normally be reached Monday – Friday from 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached at 571-272-6729.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

***Alexandria, VA 22313-1450***

or faxed to:

703-872-9306 [Official Communications; including After Final  
communications labeled "Box AF"]

571-273-6727 [For status inquiries, draft communication, labeled  
"Proposed" or "Draft"]

Hand delivered responses should be brought to:

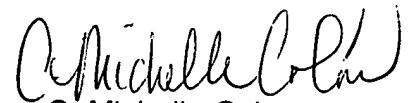
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C. Michelle Colon  
Patent Examiner  
Art Unit 3623

June 22, 2005